Response to Comments Document

Fecal Bacteria and General Standard Total Maximum Daily Load Development For Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA

Introduction

A final public meeting was held for the Middle and South River TMDLs on March 25, 2004. The draft TMDL report was presented at the meeting and made available on the DEQ website. A public comment period on the draft report was held from March 25, 2004 until April 24, 2004. During the public comment period, three sets of comments were received. These comments are presented below, followed by DEQ's response to each comment.

Comments Submitted by Jean Andrews

Comment 1

The Augusta County Service Authority (ACSA) appreciates the opportunity to comment on the TMDLs for Middle and South Rivers.

Two items concern me regarding this process. The first item is during the last few months, MapTech said that the cause of the bacterial and benthic impairments for Middle and South Rivers were from non-point sources, not point sources. At the earlier meetings, it was stated emphatically that participation in the implementation phase was voluntary. However, the treatment plants are ending up with Waste Load Allocations (WLA), which are regulatory. This is definitely a contradiction, especially since the point sources are not the cause of the impairment.

Response

The commenter is correct in that the large majority of bacteria and sediment loads in the subject TMDLs are from non-point sources. While point sources contribute only a small fraction of the total loads, point sources do discharge the contaminants of concern, and therefore must receive an allocation. Because the point source dischargers were not considered to be the primary cause of impairments in the subject TMDLs, point sources were assigned waste load allocations that matched the maximum loads allowed under the permit. This means that reductions are not required of point sources.

The commenter is also correct in that waste load allocations (WLAs) assigned to point sources become regulatory. This regulatory action, however, does not impose any restrictions that the point sources are not already subject to under the VPDES discharge permit. The WLA was developed to match the maximum loads allowed under the existing permit. When a need for plant expansion arises, the permittee can always apply to expand the permitted flow and WLA through the permit process. The request will be evaluated and the TMDL could be amended depending on the impact of the expansion and EPA concurrence. DEQ has an agreement with EPA that expansions of bacterial WLAs can easily be accommodated up to 5x the current WLA, provided that the water quality standard for bacteria is met at end of pipe. For expansions of sediment or total suspended solids (TSS) WLAs, expansions that have insignificant impacts (generally defined by DEQ as less than 1% of total TMDL load) may be allowed according to current EPA guidance.

Lastly, any discussions of voluntary implementation during public meetings was with regard to non-point sources. Current regulations do not require non-point sources to comply with TMDL load reductions, and DEQ has not been given authority to force such compliance. For this reason, reductions of non-point source loads must rely on voluntary implementation of best management practices (BMPs) by non-point sources. Federal and State cost-share, loan, and tax credit programs are available to encourage this necessary voluntary implementation.

Comment 2

According to one of your slides last night, the process is to perform the TMDL study, develop an implementation plan, implement the plan and then do follow-up monitoring, with plans to return to the plan development stage if the stream quality is not improved. With this scenario, it appears that the treatment plants WLA could decrease even though point sources are not the cause of the problem. This could potentially cause a rate increase for our customers, even though point sources are not the cause of the impairment. This needs careful consideration as you move forward with this process.

Response

There is no intent to revisit TMDL allocations for the purpose of establishing reductions to point source loads, unless the point source is determined to be a primary cause of the impairment.

Comments Submitted by Harold Tate

Comment 1

On behalf of the executive board of the Stonewall Jackson Area Council, Boy Scouts of America, I express our thank you for the opportunity to comment and the DEQ efforts to develop Total Maximum Daily Loads for the Middle River watershed.

We currently operate a sewage treatment plant, VPDES# VA0060917, which allows a discharge of 0.0029 MGD. The plant functions from late May until late August. In some years we will discharge two to three weekends in September and October.

We understand that a new waste load allocation for Middle River could ultimately create a possible cap for our permitted discharge. In your decision process please take into account the nature of our discharge:

1. Most of our wastewater is derived from washing dishes for an average of 235 persons three (3) times per day for 42 days between the fourth week of June and the first week of August inclusive.
2. Showers for our summer staff
3. Solid waste contributions to our waste water comes from:
    - Four (4) staff toilets
    - Three (3) visitor toilets

Response

See responses to comments submitted by Jean Andrews above. In addition, based on the information provided about the discharge in this comment, the permittee would appear to have additional room for expansion under the WLA cap. The WLA for this facility was derived from the permit conditions, which allow for a year-round discharge. If the permittee continues to operate on a seasonal basis, the WLA established based on the year-round permit would provide additional room for expansion under the WLA. Of course, all

expansion requests must be made through the VPDES permit program and are subject to all applicable water quality regulations.

Comment 2

We hasten to point out that we have worked hard at Camp Shenandoah to maintain the quality of the water in the creek (Creek) to which we discharge. The Creek feeds our lake where Scouts swim, boat, and canoe. As evidence of our stewardship efforts please also know that:

- In 1997 we established a reproducing population of brook trout above the lake in the Creek. In cooperation with the Virginia Department of Game and Inland Fisheries and Trout Unlimited, we have developed an interpretive trail along the Creek's course to help Scouts understand the watershed and its relationship to the Creek's water chemistry and how the trout and other stream life are indicators of good water quality.
- In 1999 we purchased property whose run-off impacted our lake. Cattle have been removed and hardwood trees through the C.R.E.P program have been planted on the two drainages on that property. These two actions have considerably improved nutrient and silt inputs to the lake and the Creek above our discharge point.

Additionally it should be noted that there is a pasture opposite our southwestern boundary. Run-off from this pasture flows through 3,500 feet of our wooded property into our lake. This small water course flows through a small beaver impoundment. Loading contributions from this intermittent flow are considerably if not completely mitigated by our property features.

The remaining intermittent creek that enters our lake, and ultimately in the Creek, drains our woodland property and the wooded property of the Virginia Department of Game and Inland Fisheries.

Thank you for your consideration of these points and for including them in the public record.

Response

DEQ applauds the efforts of the Stonewall Jackson Area Council, Boy Scouts of America, to improve and protect the environment as described in the comment above. The activities described above, such as riparian tree plantings installed through the CREP program, are exactly the types of best management practices that need to be adopted throughout the watershed to effectively meet the TMDL goals.

Comments Submitted by Bill Braunworth

Comment 1

Enclosed letter Jan. 12, 2004 to your Ms. Norma Job describes significant future water quality issues: paragraph 5. Tree/shrub planting is virtually non existent, supposedly to be complete Mar., 2004 per C.O.E. letter enclosed.

All listed issues are a serious downstream environmental degradation of water quality challenging the ecosystem of our most valuable tree growing land. Water quality may adversely impact a Grade A dairy farm. Siltation a major impact on Middle River!

Please keep these two letters on record for future reference.

Response

The issues raised by the commenter in the enclosed letters relates to land disturbing activities and stream channel alterations at the Shenandoah Valley Regional Airport. These activities are within the Broad Run watershed, which drains into Middle River at approximately river mile 2.9. This section of Middle River is listed (in the 2004 303(d) Impaired Waters List) for a fecal coliform bacteria impairment, and the subject TMDL addresses this bacterial impairment. The land disturbing activities at the Shenandoah Valley Regional Airport would not contribute a bacterial load to this impairment, and were therefore not considered in the development of the bacterial TMDL. Land disturbing activities at this facility would contribute to sediment loads in the stream, however, a TMDL is not being developed for sediment on this section of Middle River because this section is not listed for a general standard (benthic) impairment.

Regulatory controls on land disturbing activities and stream channel alterations at the Shenandoah Valley Regional Airport are instituted under an Augusta County Erosion and Sediment Control permit and a Virginia Wetlands Protection permit issued by DEQ. DEQ has conducted numerous inspections of the facility to ensure that permit requirements are being met. DEQ will continue to monitor compliance with this permit.